

CALifornians for Renewable
Energy, Inc. (CARE)
C/o Michael Boyd
5439 Soquel Drive
Soquel, CA 95073

State of California
Energy Resources Conservation
And Development Commission

In the Matter of:)	
)	Docket No. 01-AFC-4
)	
Application for Certification for the)	Comments to Errata to
East Altamont Energy Center)	The Revised Presiding
[East Altamont])	Members Proposed Decision
_____)	

**CARE'S COMMENTS ON THE ERRATA TO THE
REVISED PRESIDING MEMBER'S PROPOSED DECISION**

On May 14, 2003, the Committee presiding over the East Altamont Energy Center (EAEC) Application for Certification released the Revised Presiding Member's Proposed Decision (RPMPD) for review and comment. On June 3, 2003, the Committee held a lengthy conference to receive comments on the RPMPD. All parties were also given a subsequent opportunity to respond to comments filed by the Mountain House Community Services District (MHCSD) on June 5, 2003. On June 13, 2003, the Committee issued the Errata to the Committee's Revised Presiding Member's Proposed Decision, which also addressed various comments raised by the parties. Pursuant to the Committee Order for Filing Comments, dated June 30, 2003, the CARE submits these comments on the Errata to the Revised Presiding Members Proposed Decision ("RPMPD"), issued on June 16, 2003, in the areas of Air and Water Resources.

Our comments focus on two critical issues, which require significant clarification or correction. Each of these issues is integral to the viability of the proposed project.

First, the Warren Alquist Act, and the Commission's own Rules and Procedures, has no provision for the public notice requirements for public hearings on the Revised Presiding Member's Proposed Decision nor the Committee's Errata to the Committee's Revised Presiding Member's Proposed Decision. In this case here it is clear that the provisions of the California Environmental Quality Act (CEQA) for such public notice must apply.

At the Committee's June 3, 2003 purported public hearing on the Committee's RPMPD, CARE formally objected to the CEC Committee's failure to comply with the requirements of CEQA to notice the hearing in the newspaper ten days in advance of the hearing. These requirements include the following: Title 14, CCR. Section 15072 and section 15087 these sections were amended to establish additional procedures for the public notice of draft Negative Declarations and EIRs, respectively. For both documents, notice shall be given to all organizations and individuals who have previously requested such notice and shall also be given by at least one of the following: Publication at least one time in a newspaper of general circulation in the area affected by the proposed project (note: "area" would be identified by the scope of the environmental assessment conducted by the CEC); posting of notice on and off site in the area where the project is to be located; and direct mailing to owners and occupants of the property contiguous to the project. Owners of such property shall be identified as shown on the latest equalized assessment role. PRC section 21092 (c) This sections imposes additional public notice requirements for any project involving the burning of hazardous waste, as specified. These requirements apply to both the construction of a new facility and the expansion of an existing facility, which burns hazardous waste, which would increase its permitted capacity by more than ten percent (10%). Additional changes imposed by this section include the

following requirements: 1) If more than one area will be affected by the project, notice shall be published in a newspaper of largest circulation from among the newspapers of general circulation covering the overall area (note: "area" would be identified by the scope of the environmental assessment conducted by CEC); 2) notice shall be given by direct mailing to owners and occupants of the property within one-fourth (1/4) of a mile from the project; and 3) notice shall be given to the last known name and address of all organizations and individuals who had requested such notice. PRC section 21092.2 This section requires CEC to mail a notice required by PRC section 21092 to any person who has filed a written request for notices with the "director of the (Lead) agency." Responsibility for implementation of the public notice requirements identified above shall continue to rest with the program proposing to carry out a particular project.

CARE contends the Errata to the Committee's Revised Presiding Member's Proposed Decision, as well as the Committee's Revised Presiding Member's Proposed Decision, as such fail to comply with the over riding provisions of CEQA, to provide appropriate public notice including notice shall be published in a newspaper of largest circulation from among the newspapers of general circulation covering the overall area. As such we contend that proper notice to the public has not been provided necessary for a legally defensible Certification of the project's development.

Second, in regards to the provision of the use of reclaimed water for the project. We have assumed that there where too many jurisdictional and legal impediments to the likely availability of the reclaimed water for the project to see the need for us to raise the issue of the reasonably foreseeable threat of airborne pathogens such as prions to the public health from the use of reclaimed water in the projects cooling, which is also a threat as well to biological resources, not analyzed or mitigated, pursuant to the precautionary principle for risk assessment. CARE contends the record for this case is sufficient to support provisions requiring the project's approval be conditioned to the use of "dry

cooling” technology as well as SCONox emission control technology, which serves the best public use, by providing mitigation to the maximum extent feasible under CEQA, as well as conserving water.

One potential threat Prion diseases are often called spongiform encephalopathies because of the post mortem appearance of the brain with large vacuoles in the cortex and cerebellum. Probably most mammalian species develop these diseases.

It seems that a protein alone is the infectious agent. The infectious agent has been called a prion. A prion has been defined as "small proteinaceous infectious particles, which resist inactivation, by procedures that modify nucleic acids". The discovery that proteins alone can transmit an infectious disease has come as a considerable surprise to the scientific community.

Hypothesized in 1982 by Dr. Stanley B. Prusiner of UCSF, prions are a class of infectious agents composed of nothing but protein. Dr. Prusiner was awarded the Nobel Prize in physiology or medicine in 1997 for the discovery. Though their exact mechanisms of action and reproduction are still unknown, it is now commonly accepted that they are responsible for a number of previously known but little-understood diseases including scrapie (a disease of sheep), Kuru (a disease common among a New Guinean tribe who practiced funerary cannibalism), Creutzfeldt-Jakob Disease (a neurological disorder), and Bovine Spongiform Encephalopathy ("Mad Cow Disease").

The word is derived from a combination of the words "proteinaceous infectious particle". It refers to the hypothesis (widely discounted when first proposed) that infectious agents causing such diseases consisted only of protein, with no nucleic acids. All pathogens known prior to that time (bacteria, viruses, etc.) contain nucleic acids, which enable reproduction. The prion hypothesis was developed to explain why the mysterious infectious agent causing Creutzfeldt-Jakob disease which resisted ultraviolet radiation (breaks down nucleic acids) but responded to agents that disrupt proteins. Ultraviolet radiation is used in many wastewater treatment facilities as a disinfectant.

A breakthrough occurred when researchers discovered that the infectious agent consisted mainly of a protein called PRP. This protein is found in the membranes of normal cells (its precise function is not known), but an altered shape distinguished the infectious agent. It is hypothesized that the distorted protein binds to normal proteins of the same type and somehow induces them to change their shape as well, producing a chain reaction that both propagates the disease and generates new infectious material. Since the original hypothesis was proposed, a gene for the PRP protein has been isolated, the mutation that causes the variant shape has been identified and successfully cloned, and studies using genetically altered mice have bolstered the prion hypothesis. The evidence in support of the hypothesis is quite strong now, but not incontrovertible.

While CARE's research on prions has failed to discover any direct evidence in the literature on the effects of airborne prion exposure, such inference may be drawn from reports linking prions to sludge.

EPA looks away from possible health threat

USA Today, Oct 7, 1999

Early in the morning of Nov. 24, 1995, Joanne Marshall woke to find her 26-year-old son, Shayne Conner, gasping for breath. Though an ambulance rushed him to the hospital, he later died from respiratory distress. Conner's death was just one of several medical problems that neighbors in Greenland, N.H., had experienced in the month after trucks started dumping sewage sludge - residue left over from wastewater treatment plants - on a nearby field.

Did sludge contribute to Conner's death? Did it cause the death of 11-year-old Tony Behun? He died in 1994 shortly after riding his motorcycle through a Pennsylvania field recently coated with sewage sludge. And has it killed farm animals, as some farmers allege? So far, no clear link has been established between the deaths and sludge. There are only troubling questions about the possible health effects of exposure to sewage sludge.

Further Corroborative evidence of the effects of airborne pathogens comes from the June 24, 2002 addition of Time Magazine titled *What's in Your Pipes?*

Fern Leitman, 56, a longtime Florida resident, thought her repeated bouts of pneumonia were just bad luck. Doctors told Suzan King-Carr, 58, of Hobe Sound, Fla., that the spots on her lungs were probably cancer. Ida Mae Williams, 76, of Bogalusa, La., was informed that she had tuberculosis. Three women, three different diagnoses — all of them wrong. After years of ineffectual treatment, each woman learned that she, like thousands of other Americans, had developed a mysterious lung infection that mimics TB, seems to strike thin, white women in particular and can be permanently debilitating. Most unsettling of all, they could have developed the ailment simply by stepping into a shower.

What is unclear is whether the increase in reported cases is the result of better diagnoses or of some as yet undiscovered change in the bug or the environment it grows in. "That's what keeps me awake at night," says Dr. Gwen Huitt, a pulmonologist at the National Jewish Medical and Research Center in Denver. "These mycobacteria are everywhere." They thrive in what scientists call biofilms — pond scum and the slime inside faucets and showerheads.

Shower stalls are particularly suspect. Some doctors believe that ***mycobacteria from the pipes are becoming aerosolized in water spray.***

Wastewater treatment involves three steps referred to as primary, secondary, and tertiary treatment. Primary treatment involves the removal of solids from the wastewater in settling ponds, followed by second treatment, which removes the majority of pathogens through a large tank filled with bacteria filled water called a digester. Secondary treated effluent is then disinfected using chlorine or ultraviolet light. Tertiary treatment is basically a large activated charcoal filter that removes the remaining dissolved solids present. The bi-product of the tertiary treated wastewater is sludge.

The evidence of prion exposure from sludge infers that the presence of such pathogens in the remaining wastewater is reasonably foreseeable, and your failure to properly analyze such impacts, implies your and the applicant's acceptance of full liability for such. The evidence of mycobacteria from the pipes becoming aerosolized in water spray also infers that exposure to airborne prions

is reasonably foreseeable and there is no evidence in your records that this was properly analyzed.

Respectfully submitted,

By 

Filed Electronically 7-0-03
Michael E. Boyd – President, CARE
5439 Soquel Drive
Soquel, California 95073
(831) 465-9809
E-mail: michaelboyd@sbcglobal.net

Verification

I am an officer of the intervening corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except matters, which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 3rd, 2003, at Soquel, California



Michael E. Boyd – President, CARE
CALifornians for Renewable Energy, Inc. (CARE)
5439 Soquel Dr.
Soquel, CA 95073-2659
Tel: (408) 891-9677
Fax: (831) 465-8491
michaelboyd@sbcglobal.net